

Assembly Bill No. 1069

Passed the Assembly August 21, 2003

Chief Clerk of the Assembly

Passed the Senate July 21, 2003

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 27541, 27551, and 27553 of, and to add Sections 27503.5, 27519.5, 27680, 27681, 27682, 27683, 27684, 27685, 27686, 27687, 27688, 27688.5, 27689, and 27690 to, the Food and Agricultural Code, relating to eggs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1069, Committee on Agriculture. Eggs.

Existing law governing the regulation of eggs and egg products provides that its purposes are to assure that healthful and wholesale eggs of known quality are sold in the state, to facilitate the orderly marketing of eggs, and to prevent the marketing of deceptive or mislabeled containers of eggs. Existing law provides that the Secretary of Food and Agriculture may adopt regulations relating to the preparation for market and marketing of shell eggs, including procedures for the collection of assessments and for the registration of egg handlers. The secretary may prescribe the frequency of payment, procedure for payment, and penalties for late payment of assessments. Existing law requires that the initial purchaser of eggs from out-of-state shall report and pay to the director a maximum assessment fee of five cents (\$0.05) for each 30 dozens of eggs, which shall be deposited into the Department of Food and Agriculture Fund and used only for the administration and enforcement of provisions relating to shell eggs.

This bill would provide that an assessment for eggs for which the required payment has not been made by the date established by the department shall be triple the amount otherwise due or \$500, whichever is greater.

The bill would require out-of-state egg handlers and producers selling eggs in California to register with the Secretary of Food and Agriculture. This bill would require the fees collected to be paid based upon the number of eggs sold, as specified. This bill would require out-of-state egg handlers to pay the fee on eggs sold in California. This bill would specify procedures by which out-of-state registrants would be inspected by the department. This bill would provide that if the department determines that eggs do not comply with standards, the department would prevent their sale in California, as specified. This bill would require each



registrant to submit a report on its operations with respect to eggs sold in California and to remit any fees due on a monthly basis.

Because this bill would impose new enforcement duties upon local agencies thereby requiring them to perform a higher level of service, and would also create new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 27503.5 is added to the Food and Agricultural Code, to read:

27503.5. “California egg” means an egg produced in this state.

SEC. 2. Section 27519.5 is added to the Food and Agricultural Code, to read:

27519.5. “Shipped egg” means an egg that is produced outside the State of California and shipped into the state for purposes of resale or use by a direct user.

SEC. 3. Section 27541 of the Food and Agricultural Code is amended to read:

27541. Any person engaged in business in this state as an egg producer or egg handler, or any out-of-state egg handler or egg producer selling eggs into California, shall register with the secretary. A new registration shall be submitted if any current information changes.

SEC. 4. Section 27551 of the Food and Agricultural Code is amended to read:

27551. The following persons shall pay to the secretary a maximum fee of five cents (\$0.05) for each 30 dozens of eggs sold as provided below:



(a) California egg handlers shall pay the fee on all egg sales from their own production, on eggs purchased or acquired from California egg producers, and on eggs processed into egg products. California egg handlers shall not pay a fee on eggs purchased from out-of-state egg handlers or egg producers.

(b) California egg producers shall pay the fee on all egg sales to anyone not registered under this chapter as an egg handler, to out-of-state purchasers, and to egg breaking plants.

(c) Out-of-state egg handlers and producers shall report and pay the fee on egg sales into California sold to a retailer, producer, handler, or breaking plant.

(d) Shipments of eggs which are accompanied by a United States Department of Agriculture certificate of grade and sold to the federal government or its agencies are exempt from these fees.

(e) Eggs sold to household consumers on the premises where produced from a total flock size of 500 hens or less are exempt from these fees.

(f) The assessment provided for in this section shall only be paid once on any particular egg.

SEC. 5. Section 27553 of the Food and Agricultural Code is amended to read:

27553. The secretary may, by regulation, prescribe the frequency of payment of assessments, the procedures for payment, the procedures for refunds of payment, and penalties for late payment. However, the department may triple the assessment for any eggs for which the required payment has not been made by the established due date. If a triple assessment is less than five hundred dollars (\$500), the assessment shall be five hundred dollars (\$500).

SEC. 6. Section 27680 is added to the Food and Agricultural Code, to read:

27680. If the grade determination and size determination required by this chapter or performed at a location outside of this state, the records relating to eggs of any person registered under this chapter at that location shall be subject to inspection by the department as the department considers necessary. The department may contract with another agency of state government or with a state department of agriculture or other similar agency where the out-of-state registrant is domiciled to conduct the inspection.



SEC. 7. Section 27681 is added to the Food and Agricultural Code, to read:

27681. A registrant whose out-of-state location is inspected shall reimburse the department for actual and necessary expenses incurred during the inspection. If an out-of-state registrant fails to pay the expenses before the 11th day on which the registrant received an invoice from the department, the department may:

(a) Automatically cancel the person's registration.

(b) Deny a registration to any person who is connected with a person whose registration is canceled because of a violation of this section.

(c) Issue an order to stop the sale of all eggs shipped into California from the registrant.

SEC. 8. Section 27682 is added to the Food and Agricultural Code, to read:

27682. The actual and necessary expenses of the department for each inspection of an out-of-state location may not exceed either of the following:

(a) The actual and necessary expenses, not to exceed the state's per diem, for food, lodging, and local transportation of the inspector and the cost of the least expensive available space round-trip airfare from Sacramento to the location to be inspected.

(b) Any contract fees charged to perform the inspection by another state agency or an agricultural agency in the state where the registrant is domiciled.

SEC. 9. Section 27683 is added to the Food and Agricultural Code, to read:

27683. The department shall attempt to schedule as many out-of-state inspections as feasible within an area on each inspection trip. If more than one registrant is inspected in an area during an inspection trip, the expenses of the trip shall be divided proportionately among the registrants based upon the amount of time spent on each registrant's audit.

SEC. 10. Section 27684 is added to the Food and Agricultural Code, to read:

27684. The department shall perform sufficient inspections of the records of out-of-state registrants to ensure that out-of-state registrants selling eggs into California pay the appropriate fees as required by Section 27551.



SEC. 11. Section 27685 is added to the Food and Agricultural Code, to read:

27685. Before receiving a registration as required by this chapter, an applicant whose home office or principal place of business is outside of this state shall file with the department the name of an agent in this state who is authorized to receive service of process in actions by the state or the department in the enforcement of this chapter.

SEC. 12. Section 27686 is added to the Food and Agricultural Code, to read:

27686. All shipped eggs must be transported under refrigeration in compliance with California statutes and regulations.

SEC. 13. Section 27687 is added to the Food and Agricultural Code, to read:

27687. (a) If the department determines that eggs are not in compliance with this chapter or that they have been shipped without the handler or producer first securing the required registration and being current on the payment of the appropriate fees, the department shall issue and enforce an order to stop the sale of the eggs.

(b) A person may not sell eggs on which a stop-sale order has been issued until the department determines that the eggs and the handler or producer are in compliance with this chapter. Eggs that are in compliance with this chapter, but for which the handler or producer have not secured the required registration and paid the appropriate fees, may only be sold or moved under the specific direction of the secretary.

(c) With respect to eggs that are not in compliance with this chapter and on which a stop-sale order has been issued, the seller may submit the eggs for reinspection to an authorized state or county enforcement officer. If on reinspection the eggs fail to meet the specification of the grades with which they are labeled, the seller must remark or repackage the eggs to meet the specifications for their actual grades before calling for reinspection. Repackaged eggs must be labeled with the original sell by date.

SEC. 14. Section 27688 is added to the Food and Agricultural Code, to read:

27688. Each registrant shall submit a report as designated by the department and remit any fees due on a monthly basis. The



report is due no later than the 30th day following the month of delivery to California. Each registrant shall keep a copy of this report on file at the registered facility for a period of three years.

SEC. 14.5. Section 27688.5 is added to the Food and Agricultural Code, to read:

27688.5. Any out-of-state registrant who fails to promptly submit required reports or pay required fees is subject to the criminal penalties specified in this chapter. A violation of this section is also subject to a civil or administrative penalty not to exceed five hundred dollars (\$500) per violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessment. The department may also seek appropriate injunctive relief.

SEC. 15. Section 27689 is added to the Food and Agricultural Code, to read:

27689. The report required by Section 27688 shall give a complete breakdown of all sales of graded and ungraded eggs into California, listing the individual plant or person to whom eggs were sold and indicating whether these eggs were sold on a graded or ungraded basis. A check or money order in the amount of the fee as required by this chapter on all eggs shipped into California on a graded basis shall accompany the report.

SEC. 16. Section 27690 is added to the Food and Agricultural Code, to read:

27690. All brokers registered with California shall itemize in their reports a true and complete list of all eggs brokered into and in California. This list shall include the name and address of all persons from whom eggs were purchased, to whom they were sold, and the amount of eggs involved in each transaction. Furthermore, the broker shall indicate whether the eggs involved in the transaction were graded or ungraded.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



With respect to other duties imposed by this act, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for costs that may be incurred by a local agency or school district because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



Approved _____, 2003

Governor

